

**Defendant's Notice of Removal**

**EXHIBIT “B”**

Donna Kay McKinney

District Clerk



Bexar County

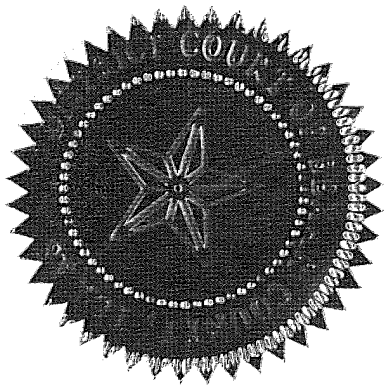
**CERTIFICATE**

(Entire File)

**STATE OF TEXAS  
COUNTY OF BEXAR**

I, Cynthia J. Aponte, Deputy District Clerk for ***Donna Kay McKinney***, District Clerk of Bexar County, Texas, do hereby certify that the documents found to be in Cause Number 2017-CI-10024 and Styled HUGO GALVAN VS DOUGLAS SABIN ET AL filed in the 166th Judicial District Court of Bexar County, Texas, and which represents the content of the entire file and certified as being held and recorded within the District Clerk's Office of Bexar County, Texas.

**GIVEN UNDER MY HAND AND OFFICIAL SEAL** of said court at the office in the City of San Antonio, Bexar County, Texas, on this the July 7, 2017.



***Donna Kay McKinney***  
***Bexar County District Clerk***

By:

*Cynthia J. Aponte*  
Cynthia J. Aponte, Deputy

FILED  
6/1/2017 12:28:03 PM  
Donna Kay McKinney  
Bexar County District Clerk  
Accepted By: Krystal Gonzalez

CAUSE NO. **2017CI10024**

wjd

HUGO GALVAN,

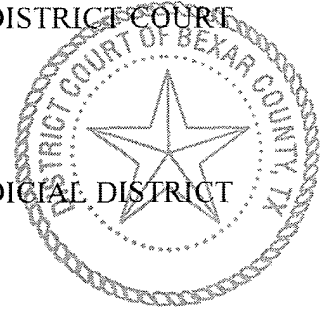
Plaintiff

v.

DOUGLAS SABIN and AMERICAN CINEMA  
EQUIPMENT COMPANY INC.

Defendants

IN THE DISTRICT COURT

**166** JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

---

**PLAINTIFF'S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE**


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TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, HUGO GALVAN, files this Plaintiff's Original Petition complaining of Defendants, DOUGLAS SABIN and AMERICAN CINEMA EQUIPMENT COMPANY INC.

**I. DISCOVERY**

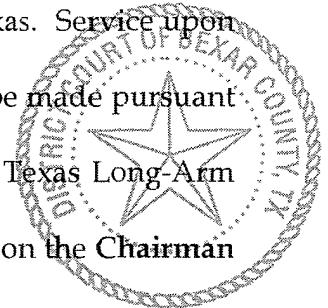
1. Plaintiff intends to conduct discovery in this suit under Level Three, pursuant to Rule 190.4 of the Texas Rules of Civil Procedure, and will seek an order, agreed or otherwise, to this effect.

**II. PARTIES**

2. **Plaintiff.** HUGO GALVAN is a natural person and at all times relevant to this cause of action has been and continues to be a resident of San Antonio, Bexar County, Texas.

3. **Defendant.** DOUGLAS SABIN ("Sabin") is a natural person and at all times relevant to this cause has been and continues to be a resident of Happy Valley, Oregon. Defendant Walker may be served by serving him at his residence at: 16886 Se Hagen, Happy Valley Oregon 97086 or wherever he may be found.

4. **Defendant.** AMERICAN CINEMA EQUIPMENT COMPANY INC. (American Cinema) is an Oregon for-profit corporation authorized to do business in Texas. Service upon Defendant AMERICAN CINEMA EQUIPMENT COMPANY INC. may be made pursuant to TEX. CIV. PRAC. & REM. CODE ANN. §§ 17.061 - 17.069 and the Texas Long-Arm Statute, TEX. CIV. PRAC. & REM. CODE ANN. § 17.041, by service upon the **Chairman of the Texas Transportation Commission, Ted Houghton, 125 E. 11th Street, Austin, Texas 78701-2483**, who shall then forward the citation and petition to Defendant AMERICAN CINEMA EQUIPMENT COMPANY INC., by certified mail, return receipt requested to their residence address: 1927 N. Argyle Street, Portland Oregon 97217.



### III. VENUE

5. Venue is proper in Bexar County, Texas, pursuant to Tex. Civ. Prac. & Rem. Code, § 15.002 in that all or substantially all of the events or acts or omissions giving rise to the claim occurred in Atascosa County, Texas.

### IV. FACTS

6. On March 30, 2016, Plaintiff, HUGO GALVAN was driving a 2000 Isuzu Rodeo traveling North on Loop 1604 N in San Antonio, Bexar County, Texas. At that exact moment, Defendant Sabin, who was operating a 2016 Dodge Durango ("Defendant vehicle"), and was also traveling North on Loop 1604 N: failed to stop and collided with the vehicle Plaintiff was traveling in. At all times, relevant to this matter, Defendant, American Cinema, was the owner of the vehicle operated by Defendant Sabin. Defendant Sabin was in the course and scope of his employment with American Cinema, when the incident occurred. Because Defendant Sabin failed to pay attention he and was unable to apply his brakes in time to avoid colliding with vehicle Plaintiff was traveling in. As a result of the incident, Plaintiff was severely injured.

## V. AGENCY AND RESPONDEAT SUPERIOR

7. At the time of the collision and the occurrences giving rise to this cause of action, Defendant Sabin was an employee of American Cinema.

8. At all times material hereto, Defendant Sabin was acting as an employee of Defendant, American Cinema, and was within the course and scope of his employment or official duties for Defendant, American Cinema, and in furtherance of the duties of his office or employment for Defendant, American Cinema.

9. Additionally, at the time of the incident, Defendant Sabin was a permissive user of Defendant, American Cinema's, vehicle.

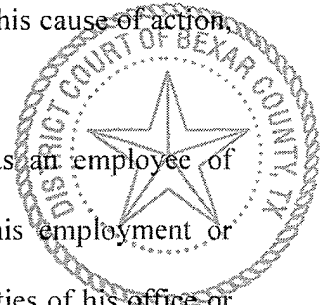
10. Defendant, American Cinema as the employer, is responsible for the negligent acts or omissions of Defendant Sabin under the principles of *respondeat superior*.

## VI. NEGLIGENCE/NEGLIGENCE PER SE

11. Plaintiff would show that, on the occasion in question, Defendants owed a duty to conduct themselves in a manner consistent with the traffic laws of the State of Texas and to act as a reasonably prudent person and/or entity would act.

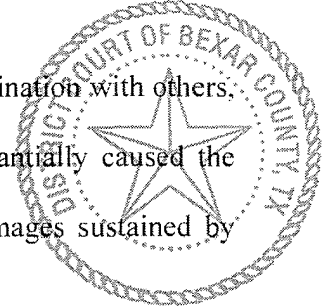
12. Defendant Sabin breached his duty to Plaintiff and acted in a manner that was negligent or negligent per se by engaging in wrongful conduct including, but not limited to:

- a. Failing to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- b. Failing to turn his motor vehicle to the right or left in an effort to avoid the collision complained of;
- c. Failing to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done;
- d. Failing to drive and maintain his vehicle in a single lane as a person using ordinary prudent care would have done;
- e. Failing to pay attention in his driving as a person using ordinary prudent care would have done; and



- f. Failing to take reasonable evasive action to avoid colliding with Plaintiff's vehicle.

14. Each of Defendants' acts and omissions, singularly or in combination with others, constituted negligence and/or negligence per se that proximately and substantially caused the occurrence made the basis of this action, and the personal injuries and damages sustained by Plaintiff.



15. Plaintiff would show that, as a proximate cause of Defendants' negligence, as described herein, Plaintiff has sustained damages far in excess of the minimum jurisdictional limits of this Court.

## **VII. DAMAGES**

16. As a direct and proximate result of Defendants' negligence, Plaintiff Hugo Galvan suffered severe personal injuries, pain, suffering, mental anguish, disability, impairment, and disfigurement, lost wages, lost earning capacity and incurred reasonable and necessary medical expenses for the care and relief of his injuries. For a long time to come, if not for the rest of his life, Plaintiff will continue to suffer physical injuries, physical impairment, disfigurement, pain and suffering, and mental anguish. Additionally, as a result of the incident, Plaintiff will incur reasonable and necessary medical expenses in the future.

17. Plaintiff now sues for all of these damages in an amount that exceeds the minimum jurisdictional limit of this Court. Pursuant to Texas Rule of Civil Procedure 47, Plaintiff asserts that he is seeking monetary relief in excess of \$1,000,000.00.

18. Plaintiff is entitled to recover prejudgment and post judgment interest as allowed by law.

### **VIII. CONDITIONS PRECEDENT**

19. All conditions precedent have been performed or have occurred to support Plaintiff's pleadings and causes of action.

### **X. REQUEST FOR JURY TRIAL**

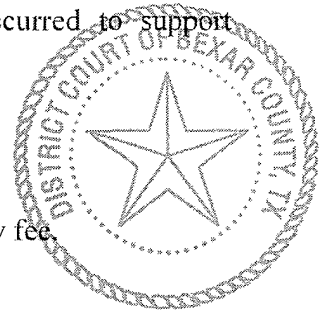
20. Plaintiff respectfully request a trial by jury and has paid the jury fee.

### **IX. REQUEST FOR DISCLOSURES**

21. Pursuant to TEXAS RULE OF CIVIL PROCEDURE 194, Defendants are hereby requested to disclose, within fifty (50) days of service of this request, the information or material described in Rule 194.2 (a-l).

**WHEREFORE**, Plaintiff requests that Defendants be cited to appear and answer herein and that on final trial, Plaintiff has judgment against Defendants for:

1. All medical expenses in the past and future;
2. Mental anguish in the past and future;
3. Physical pain in the past and future;
4. Physical impairment in the past and future;
5. Lost wages and loss of earning capacity in the past and future;
6. Disfigurement in the past and future;
7. Prejudgment and post judgment interest as allowed by law;
8. Costs of suit; and
9. Such other and further relief to which Plaintiff may be justly entitled.



Respectfully submitted,

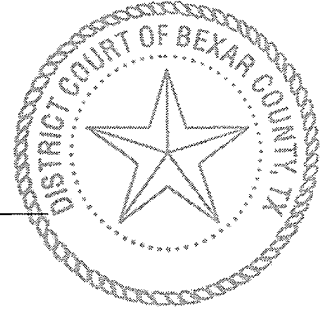
**WYATT LAW FIRM, LTD.**

21 Lynn Batts Lane, Suite 10

San Antonio, Texas 78218

Telephone: (210) 340-5550

Facsimile: (210) 340-5581



By: /s/ Paula A. Wyatt

Paula A. Wyatt

State Bar No. 10541400

[e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)

Gavin McInnis

State Bar No. 13679800

[e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)

J. Scott Mechler

State Bar No. 24055952

[e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)

**ATTORNEYS FOR PLAINTIFF**



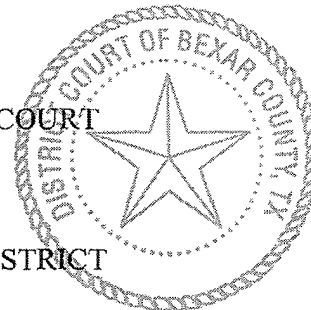
Cause No. 2017CI10024

## Defendants

§ § § § §

166<sup>TH</sup> JUDICIAL DISTRICT

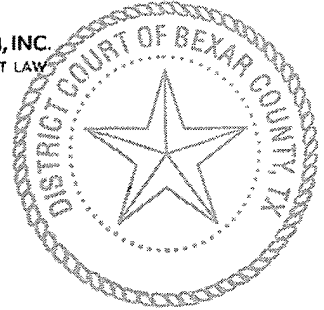
BEXAR COUNTY, TEXAS



Respectfully submitted,

**dc&m | Davis, Cedillo & Mendoza, INC.**  
ATTORNEYS AT LAW

McCombs Plaza, Suite 500  
755 E. Mulberry Avenue  
San Antonio, Texas 78212  
Telephone No.: (210) 822-6666  
Telecopier No.: (210) 822-1151



By: *Ronald E. Mendoza*  
RONALD E. MENDOZA

State Bar No. 13937700

[rmendoza@lawdcm.com](mailto:rmendoza@lawdcm.com)

BRANDON E. STREY

State Bar No. 24084969

[bstrey@lawdcm.com](mailto:bstrey@lawdcm.com)

ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served via electronic service, hand delivery, facsimile, U.S. regular mail, or certified mail, return receipt requested, to:

Ms. Paula A. Wyatt  
Mr. Gavin McInnis  
Mr. J. Scott Mechler  
WYATT LAW FIRM, LTD  
21 Lynn Batts Lane, Suite 10  
San Antonio, TX 78218  
[e-serve@wyattlawfirm.com](mailto:e-serve@wyattlawfirm.com)  
Attorneys for Plaintiff

on this 30<sup>th</sup> day of June, 2017.

*Ronald E. Mendoza*  
RONALD E. MENDOZA

PRIVATE PROCESS

Case Number: 2017-CI-10024



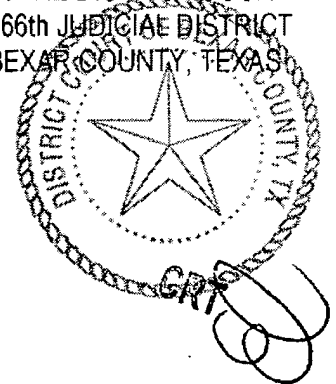
2017CI10024 S00001

**HUGO GALVAN****VS.****DOUGLAS SABIN ET AL**

(Note: Attached Document May Contain Additional Litigants.)

IN THE DISTRICT COURT  
166th JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS**CITATION****"THE STATE OF TEXAS"**

Directed To: DOUGLAS SABIN

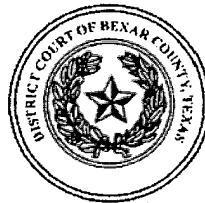


"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE, a default judgment may be taken against you." Said ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE was filed on the 1st day of June, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 6TH DAY OF JUNE A.D., 2017.

PAULA A WYATT  
ATTORNEY FOR PLAINTIFF  
21 LYNN BATTS LN 10  
SAN ANTONIO, TX 78218

*JOSE M BARBOSA*  
*6/7/17*



**Donna Kay McKinney**  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: *Larry Botello*, Deputy

HUGO GALVAN  
VS  
DOUGLAS SABIN ET AL

**Officer's Return**

Case Number: 2017-CI-10024  
Court: 166th Judicial District Court

I received this CITATION on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. and ( ) executed it by delivering a copy of the CITATION with attached ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE on the date of delivery endorsed on it to \_\_\_\_\_, in person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. at: \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_, County, Texas

By: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

NOTARY PUBLIC, STATE OF TEXAS

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_, \_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Case Number: 2017CI10024

Document Type: ENTIRE FILE

Page 9 of 13

Declarant

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**DOCUMENT SCANNED AS FILED**

PRIVATE PROCESS

Case Number: 2017-CI-10024

2017CI10024 S00002

HUGO GALVAN

VS.

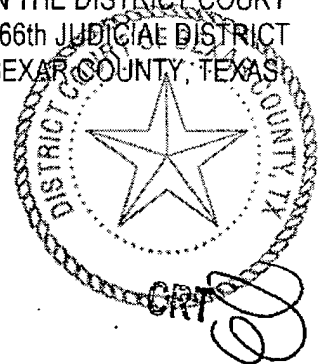
DOUGLAS SABIN ET AL

(Note: Attached Document May Contain Additional Litigants.)

IN THE DISTRICT COURT  
166th JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS

## CITATION

"THE STATE OF TEXAS"

Directed To: AMERICAN CINEMA EQUIPMENT COMPANY INC  
BY SERVING THE CHAIRMAN OF THE TEXAS TRANSPORTATION  
COMMISSION TED HOUGHTON

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE, a default judgment may be taken against you." Said ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE was filed on the 1st day of June, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 6TH DAY OF JUNE A.D., 2017.

PAULA A WYATT  
ATTORNEY FOR PLAINTIFF  
21 LYNN BATTS LN 10  
SAN ANTONIO, TX 78218

Jose M. Barboza  
6/7/17



Donna Kay McKinney  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: Larry Botello, Deputy

HUGO GALVAN  
VS  
DOUGLAS SABIN ET AL

## Officer's Return

Case Number: 2017-CI-10024  
Court: 166th Judicial District Court

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Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_, County, Texas

By: \_\_\_\_\_

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Case Number: 2017CI10024

Document Type: ENTIRE FILE

Page 10 of 13

Declarant

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DOCUMENT SCANNED AS FILED

PRIVATE PROCESS

Case Number: 2017-CI-10024

2017CI10024 S00002

HUGO GALVAN

VS.

DOUGLAS SABIN ET AL

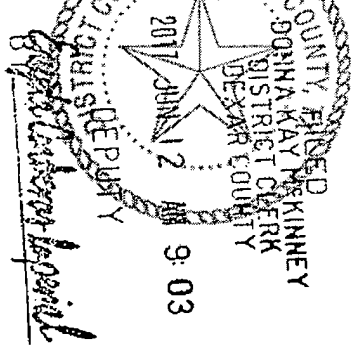
(Note: Attached Document May Contain Additional Litigants.)

## CITATION

"THE STATE OF TEXAS"

Directed To: AMERICAN CINEMA EQUIPMENT COMPANY INC  
 BY SERVING THE CHAIRMAN OF THE TEXAS TRANSPORTATION  
 COMMISSION TED HOUGHTON

IN THE DISTRICT COURT  
 166th JUDICIAL DISTRICT  
 BEXAR COUNTY, TEXAS



"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE, a default judgment may be taken against you." Said ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE was filed on the 1st day of June, 2017.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 6TH DAY OF JUNE A.D., 2017.

PAULA A WYATT  
 ATTORNEY FOR PLAINTIFF  
 21 LYNN BATTS LN 10  
 SAN ANTONIO, TX 78218



Donna Kay McKinney  
 Bexar County District Clerk  
 101 W. Nueva, Suite 217  
 San Antonio, Texas 78205

By: *Larry Botello*, Deputy

HUGO GALVAN  
 VS  
 DOUGLAS SABIN ET AL

## Officer's Return

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 Court: 166th Judicial District Court

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Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_, County, Texas  
 By: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

NOTARY PUBLIC, STATE OF TEXAS

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_, \_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Case Number: 2017CI10024

Document Type: ENTIRE FILE

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Declarant

RETURN TO COURT (DK002)

DOCUMENT SCANNED AS FILED

State of Texas

County of Bexar

166th District Court  
Case # 2017-CI-10024

## OFFICER'S RETURN

### Plaintiff's Original Petition and Request for Disclosure

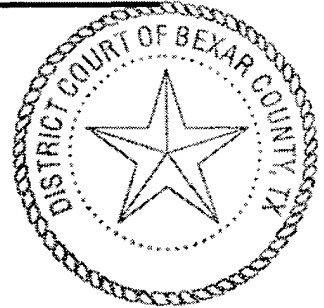
Plaintiff: **Hugo Galvan**

**vs.**

Defendants: **Douglas Sabin, ET AL**

For:

**Paula A. Wyatt**  
**Wyatt Law Firm, LTD**  
**21 Lynn Batts Lane, Suite 10**  
**San Antonio, Texas 78218**  
**(210) 340-5550**

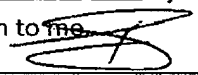


Received by Davila Civil Process on the 7th day of June, 2017 at 10:57 A.M., to be served on, **American Cinema Equipment Company Inc. by serving the Chairman of the Texas Transportation Commission, Ted Houghton, 125 E. 11th Street, Austin, Texas 78701.**

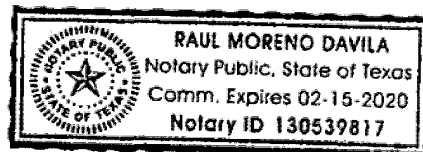
I, being duly sworn, depose and say that on the 8th day of June, 2017 at 03:09 P.M.;

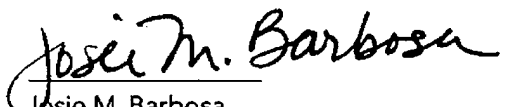
**I, INDIVIDUALLY/PERSONALLY** delivered a true copy by hand of this, **Plaintiff's Original Petition and Requests for Disclosure**, date of service endorsed thereon by me, to **American Cinema Equipment Company Inc. by serving the Chairman of the Texas Transportation Commission, Ted Houghton**, at the address of, **125 E. 11th Street, Austin, Texas 78701** and informed said person of the contents therein, in compliance with state statutes.

**I certify that I am over the age of 18, have no interest in the above action, and a Certified Process Server, in good standing, in the judicial circuit in which the process was served.**

Subscribed and Sworn to before me on the 11th day  
of JUNE, 2017 by the affiant who is personally  
known to me 

NOTARY PUBLIC

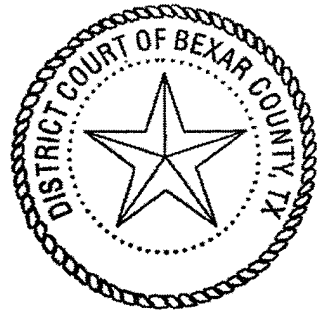


  
Josie M. Barbosa

SCH #12232 EXP 08/31/2019  
Davila Civil Process  
P.O. Box 1733  
Helotes, TX 78023  
OFFICE # 210-275-4485

P.O. Box 1733 Helotes, Texas 78023 210-275-4485 serves\_u\_right78@hotmail.com

CERTIFIED COPY CERTIFICATE STATE OF TEXAS  
I, DONNA KAY MCKINNEY, BEXAR COUNTY DISTRICT  
CLERK, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE AND CORRECT COPY OF THE ORIGINAL  
RECORD NOW IN MY LAWFUL CUSTODY. WITNESS  
MY OFFICIAL HAND AND SEAL OF OFFICE ON THIS:



*July 07, 2017*

**DONNA KAY MCKINNEY**  
**BEXAR COUNTY, TEXAS**

By: \_\_\_\_\_

*Cynthia J Aponte*  
CYNTHIA J APONTE, Deputy District Clerk

*(NOT VALID WITHOUT THE CLERKS'S ORIGINAL SIGNATURE.)*